

Exhibit A

In The Matter Of:

*Melise vs
Wall, et al*

*Kerri McCaughey
July 12, 2019*



Min-U-Script® with Word Index

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

STEPHEN MELISE,
Plaintiff,

VS.

C.A. NO. 1:17-cv-00490-JJM-PAS

ASHBEL T. WALL, et al.
Defendants.

DEPOSITION of KERRI McCAUGHEY,
a Defendant in the above-entitled cause,
taken on behalf of the Plaintiff, before
Lori Spremulli Confreda, Certified Court
Reporter, R.P.R., Commissioner, in and
for the State of Rhode Island, at
Sinapi Law Associates, Ltd., 2374 Post
Road, Suite 201, Warwick, Rhode Island
02886, on Friday, July 12th, 2019
scheduled at 10:00 A.M.

PRESENT,

FOR THE PLAINTIFF,
SINAPI LAW ASSOCIATES, Ltd.
BY: CHLOE A. DAVIS, ESQ.

FOR THE DEFENDANTS,
(RIDOC)

RHODE ISLAND OFFICE OF THE ATTORNEY GENERAL
BY: JUSTIN J. SULLIVAN,
SPECIAL ASSISTANT ATTORNEY GENERAL
AND: LAUREN HILL,
SPECIAL ASSISTANT ATTORNEY GENERAL

- and -

(FRED VOHR AND JENNIFER CLARKE)
TATE & LATHAM
BY: CHRISTINE STOWELL, ESQ.

ALSO PRESENT: ANTHONY SINAPI, PARALEGAL,
SINAPI LAW ASSOCIATES, Ltd.

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1 A. Correct.

2 Q. What are the grounds that you have for denying a
3 reasonable accommodation request?

4 A. It depends on what it is.

5 Q. What would be some grounds for denying a request for a
6 bottom bunk?

7 A. Again, bottom bunks, we only have so many. So, my
8 role would be to make sure that those that have bunks
9 have them for legitimate reasons that cannot be
10 accommodated in any other way.

11 Q. Are there any other reasons why you might deny a
12 reasonable request?

13 A. Any reasonable request?

14 Q. Yes. What are the reasons why you would deny a
15 reasonable accommodation request other than --

16 MS. DAVIS: Let me rephrase.

17 Q. You just said that you would, you might deny a bottom
18 bunk if you determine that it was not legitimate; are
19 there other reasons why you might deny a bottom bunk
20 request?

21 A. Not enough information, no documentation to justify
22 the request.

23 Q. Are there any security reasons why you might deny it?

24 A. Well, in general, climate issues. I don't have a
25 large, huge number of bottom bunks. So, again, I am

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1 making sure that those that have them are legitimate.

2 Q. Who is responsible for assigning bunks?

3 A. Housing lieutenant.

4 Q. So is there more than one person in the medium security
5 facility responsible for that?

6 A. There are more than one housing lieutenant, yes.

7 Q. How many housing lieutenants are there in medium?

8 A. Four.

9 Q. Are they responsible for a particular mod, or just do
10 they work sort of together; how does that work?

11 A. They are responsible for a particular area in the
12 facility.

13 Q. Do you know how they make decisions for assigning
14 bunks?

15 A. Any number of reasons.

16 Q. How many beds are in medium security?

17 A. Well, I am not going to give you an exact number,
18 but I can tell you there are six housing units with 906
19 bunks on the housing unit, each side has a left and a
20 right. So there's 12 housing areas with 96 bunks on
21 each side.

22 Q. So there are 12 housing areas each with 96 beds, and
23 that's the total for medium security, or did you say
24 housing units on each side?

25 A. Each side.

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1 A. I don't have that number.

2 Q. But earlier you testified that there are only so many
3 bottom bunks, and you are concerned about providing
4 them. So does that mean that there are enough orders
5 for people to have bottom bunks to reach the total
6 number of bottom bunks available; does that make sense?

7 MS. DAVIS: Let me rephrase.

8 Q. Were there so many bottom bunk orders that you might
9 run out of the bottom bunks?

10 A. That's always a consideration.

11 Q. Are you aware that it had happened at any point?

12 A. No.

13 Q. So at no point while you were the programmatic deputy
14 warden did you actually discover that you had run out
15 of bottom bunks to provide to inmates?

16 A. I never officially ran out of bottom bunks, no.

17 Q. What made you be concerned that you were going to run
18 out of bottom bunks?

19 A. Availability.

20 Q. Was there some point at which you were informed that
21 you might run out of bottom bunks?

22 A. Yes.

23 Q. So, you understand that at some point there was a
24 concern that medium security was not going to have
25 enough bottom bunks available?

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1 A. That's always a concern.

2 Q. Have you ever denied a bottom bunk because you had run
3 out of available bottom bunks?

4 A. No.

5 Q. But you were concerned that you might, and therefore,
6 you did not grant all orders for bottom bunks; is that
7 what you are saying?

8 A. I granted orders on bottom bunks based on the
9 legitimacy of the request.

10 Q. How frequently would you return a request for a bottom
11 bunk to medical requesting more information?

12 A. I don't know.

13 Q. Can you give an approximation, like 50 percent of the
14 requests, or 75 percent, 25 percent, anything?

15 A. I can't.

16 Q. Were there requests that you approved right away,
17 without asking for further information?

18 A. Yes.

19 Q. Why?

20 A. Because the order was legitimate. They sent me the
21 information I received.

22 Q. What information that you received would indicate to
23 you that it was legitimate?

24 A. The medical condition.

25 Q. The medical condition?

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1 bottom bunk.

2 Q. And that would include for any necessary reasonable
3 accommodation, is that what you are saying? Medical
4 would decide if somebody could be moved to a different
5 facility or should be moved to a different facility if
6 they have the necessary reasonable accommodation that
7 could not be accommodated in, for instance, medium
8 security?

9 MR. SULLIVAN: Objection to form.

10 MS. DAVIS: You can still go ahead and
11 answer.

12 MR. SULLIVAN: You can answer.

13 A. Oh, I am not sure exactly what you are asking me.
14 I am sorry.

15 Q. If an inmate had an approved necessary reasonable
16 accommodation that could not be accommodated in medium,
17 could they be moved to a different facility?

18 A. What medical accommodation are you referring to?

19 Q. Any type of reasonable accommodation.

20 A. That would be up to medical.

21 Q. So it would also be up to medical whether an inmate
22 with a necessary reasonable accommodation that could
23 not be accommodated in medium needed to be moved?

24 A. Yes. That would go to medical.

25 Q. And medical decides where to send them?

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1 A. Medical would decide if it was a legitimate request
2 to send them. It is based on medical, it is going to
3 come from medical.

4 Q. Whose decision is it ultimately to move inmates between
5 facilities?

6 A. That depends.

7 Q. What does it depend on?

8 A. It depends on what the incident is. It depends on
9 what the medical issue is. It depends on what the lack
10 of reasonable accommodation exists or does not exist.
11 All cases are going to be very individual.

12 Q. But you are saying that the correctional staff could be
13 involved in the decision to move an inmate for
14 reasonable accommodation purposes?

15 A. The administration would be involved in a decision,
16 the warden.

17 Q. Have you ever denied an order for a bottom bunk for
18 inmates, other than the plaintiff in this case?

19 A. I don't recall.

20 Q. You do not recall ever denying an order for a bottom
21 bunk?

22 A. Yes. I am sure I have. I just don't recall anyone
23 in particular.

24 Q. Do you know how many approximately?

25 A. I don't.

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1 Q. What do you consider to be illegitimate medical
2 conditions to be granted a bottom bunk?

3 A. Illegitimate medical conditions?

4 Q. You testified that you review whether or not bottom,
5 whether reasonable accommodation are requested for
6 legitimate reasons; what do consider to be illegitimate
7 reasons?

8 A. It would be a request for a bottom bunk where the
9 need is not documented medically. They cannot provide
10 me more information to make an educated decision based
11 on medical, it's based on self-reporting.

12 Q. Can you determine just from looking at the request that
13 is sent to you whether or not an order is illegitimate?

14 A. If the request says just bottom bunk, I am going to
15 request more information.

16 Q. Would you ever deny one without requesting more
17 information?

18 A. I would request more information before I denied
19 it.

20 Q. When you request more information, how do you receive
21 more information? Is it on the order itself? Is it
22 over the phone? Is it an E-mail?

23 A. It is typically on the form itself, either written
24 on the form itself, or in some cases, a sticky note.

25 Q. Did you ever receive more information, other than